

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ABBAS ELCHEIKHALI,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

09-CV-1033 (WJM)

ORDER

HON. WILLIAM J. MARTINI

THIS MATTER having come before the Court on *pro se* prisoner Abbas Elcheikhali's motion seeking relief from the denial of his motion for reconsideration of the Court's November 6, 2009 order denying his motion to vacate, set aside, or correct his plea-bargained sentence pursuant to 28 U.S.C. § 2255; the Court being unaware of any grounds for additional relief and noting that the sole basis upon which Elcheikhali argues he is entitled to additional relief being the Supreme Court's recent decision in *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010) in which the Supreme Court held that an attorney's failure to inform his client of the immigration consequences of a guilty plea can satisfy the first of the two prongs of the *Strickland v. Washington* ineffective assistance of counsel test, namely legal representation that falls below a reasonable standard, *Strickland v. Washington*, 466 U.S. 668 (1984); this Court noting that as the *Padilla* court held, a party asserting ineffective assistance of counsel must still satisfy the second prong of the *Strickland* test, namely prejudice; the Court noting that it has already ruled on two occasions that regardless of what Elcheikhali's attorney had informed him, Elcheikhali was aware of the likelihood of deportation because this Court alerted him to it in open court on multiple occasions such that there was no prejudice; the Court therefore concluding that even if

the decision in *Padilla* enables Elcheikhali to satisfy the first prong of the *Strickland* test, he cannot satisfy the second; and good cause appearing,

IT IS on this 29th day of October 2010, hereby,

ORDERED that Elcheikhali's motion for relief is **DENIED WITH PREJUDICE**.

/s/ William J. Martini
WILLIAM J. MARTINI, U.S.D.J.